



CITY COUNCIL AGENDA REPORT

MEETING DATE: JULY 20, 2010

ITEM NUMBER:

SUBJECT: SECOND READING OF ORDINANCE 10-8 ADOPTING THIRD AMENDMENT TO HOME RANCH DEVELOPMENT AGREEMENT DA-10-01

DATE: JULY 7, 2010

FROM: DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MINOO ASHABI, SENIOR PLANNER
KIMBERLY BRANDT, DIRECTOR

FOR FURTHER INFORMATION CONTACT: MINOO ASHABI, SENIOR PLANNER
(714) 754-5610

RECOMMENDATION:

Give second reading to attached ordinance amending Home Ranch Development Agreement (DA-00-01).

ANALYSIS:

On July 6, 2010, City Council gave first reading to the attached ordinance by a 4-0 vote adopting third amendment to the Home Ranch Development Agreement originally executed in 2001 (DA-00-01). Staff has no further information on this item.

MINOO ASHABI, AIA
Senior Planner

KIMBERLY BRANDT, AICP
Development Services Director

Distribution: City Manager
Assistant City Manager
City Attorney
Historic Preservation Committee
Public Services Director
Fire Chief
Fire Protection Analyst
Transportation Manager
Recreation Manager
City Clerk (2)
Staff (4)
File (2)

Mr. Justin McCusker
C.J. Segerstrom and Sons
3315 Fairview Road
Costa Mesa, CA 92626

ATTACHMENT: Ordinance 10-8

File: 072010HomeRanch2ndRead

Date: 070810

Time: 1:30 p.m.

ORDINANCE NO. 10-8

AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING THIRD AMENDMENT TO HOME RANCH DEVELOPMENT AGREEMENT DA-00-01 FOR HOME RANCH PROPERTY LOCATED NORTH OF THE INTERSTATE I-405, EAST OF HARBOR BOULEVARD, AND SOUTH OF SUNFLOWER AVENUE

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, a duly noticed public hearing was held by the City Council on July 6, 2010 pursuant to the procedures described in Council Resolution No. 88-53. At this hearing, the City Council considered the evidence, the testimony presented by the public regarding the annual review and proposed Third Amendment to Development Agreement DA-00-01 between the City of Costa Mesa and C.J. Segerstrom & Sons, Henry T. Segerstrom Properties LLC, a California limited liability company, and Ruth Ann Moriarty Properties LLC, a California limited liability company (collectively referred to as "CJS").

SECTION 1: ADOPTION OF THIRD AMENDMENT TO HOME RANCH DEVELOPMENT AGREEMENT DA-00-01.

The City Council **HEREBY ADOPTS** the Third Amendment to the Home Ranch Development Agreement DA-00-01, as shown in **EXHIBIT "1"**. The Third Amendment specifies the following changes to the terms and conditions of the Agreement:

- (1) The amendment extends the duration of Agreement for an additional 13 years, from January 2017 to January 2030.
- (2) The amendment clarifies that the \$5 million sales tax cumulative sales tax guarantee is satisfied.
- (3) The amendment increases the future Fire Station size from 30,000 to 40,000 square feet, identifies a parcel size of 200 feet by 200 feet, and specifies a location with direct access from South Coast Drive.
- (4) The amendment modifies provisions related to historic and cultural resources, including but not limited to: a change in the historic site/structures preservation period from "perpetuity" to "50 years", defining maintenance responsibilities, specifying public access to one day a year, and establishing provisions for the historic reserve account.

- (5) The amendment requires recordation of a land use restriction specifying a 50-year guarantee for maintenance and public access to the historic site/structures.
- (6) The amendment reiterates that future relocation of historic structures are subject to additional expert analysis and environmental review.

Council adoption of the Third Amendment to Home Ranch Development Agreement DA-00-01 is pursuant to the following findings:

- (1) The amendment is consistent with the 2000 General Plan and North Costa Mesa Specific Plan;
- (2) The amendment is compatible with the uses authorized in, and existing land uses prescribed for the zoning district in which the real property covered by the Third Amendment to the Development Agreement is located; and,
- (3) The amendment promotes the public necessity, public convenience, general welfare, and good land uses practices.
- (4) The amendment is not found to be detrimental to the public's health, safety and general welfare, or adversely affect the development of the property;
- (5) The amendment promotes and encourages the development of the proposed project by providing stability and certainty to the developer, and provide to the City and its citizens the public benefits promised in the Development Agreement and subsequently approved amendments to date;

SECTION 2. ENVIRONMENTAL DETERMINATION. The proposed third amendment was processed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines, and is considered to be within the scope of the Final Program Environmental Impact Report SCH No. 2000071050 and the Mitigation Monitoring Program for Segerstrom Home Ranch Development project adopted on December 3, 2001;

SECTION 3. INCONSISTENCIES. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION 4. SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 5. PUBLICATION. This ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and, prior to the expiration of fifteen (15) days from its passage, shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names of the members of the City Council voting for and against the same.

PASSED AND ADOPTED this _____ day of _____ 2010.

ALLAN R. MANSOOR
Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

City Clerk of the City of Costa Mesa

City Attorney

EXEMPT RECORDING PER GOVERNMENT CODE
SECTION 6103

Recording Requested by CITY OF COSTA MESA

When Recorded Mail to:

CITY OF COSTA MESA
ATTENTION: City Clerk
P.O. BOX 1200
COSTA MESA, CALIFORNIA 92628-1200

Title of the Document:

THIRD AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR
HOME RANCH

by and between

CITY OF COSTA MESA

and

C.J. SEGERSTROM & SONS, HENRY T. SEGERSTROM
PROPERTIES LLC AND RUTH ANN MORIARTY PROPERTIES, LLC

DA-00-01
Ordinance No. 01-29

REGARDING ORIGINAL DEVELOPMENT AGREEMENT FOR HOME RANCH (DA-00-01):

Recorded in Official Records, County of Orange
Recording Number: 20020229863
Recording Date: 3/20/2002

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CITY OF COSTA MESA
77 Fair Drive
Costa Mesa, CA 92626
Attn: CITY Clerk

(Space Above This Line for Recorder's Use)

This Third Amendment to the Development Agreement for Home Ranch Development Property is recorded at the request and for the benefit of the CITY of Costa Mesa and is exempt from the payment of a recording fee pursuant to Government Code § 6103

CITY OF COSTA MESA

By: _____
Its: _____
Dated: _____

THIRD AMENDMENT TO THE
DEVELOPMENT AGREEMENT FOR
HOME RANCH

by and between

CITY OF COSTA MESA

and

C.J. SEGERSTROM & SONS, HENRY T. SEGERSTROM PROPERTIES LLC AND RUTH
ANN MORIARTY PROPERTIES, LLC

DA-00-01
Ordinance No. 01-29

THIRD AMENDMENT TO THE
DEVELOPMENT AGREEMENT FOR HOME RANCH

THIS THIRD AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR HOME RANCH (the "**Amendment**") is executed this _____ day of _____, 2010, by and between The City of Costa Mesa, a Municipal Corporation of the State of California (the "**City**"), and C.J. Segerstrom & Sons, a California general partnership, Henry T. Segerstrom Properties, LLC, a California limited liability company, and Ruth Ann Moriarty Properties, LLC, a California limited liability company (collectively, "**CJS**"), with respect to the following:

RECITALS

A. City and CJS entered into that certain Development Agreement for Home Ranch dated as of December 3, 2001 (the "**Original Agreement**"), as amended by that certain First Amendment to the Development Agreement for Home Ranch effective October 15, 2003 (the "**First Amendment**"), and that certain Second Amendment to the Development Agreement for Home Ranch dated as of April 3, 2007 (the "**Second Amendment**"). The Original Agreement, First Amendment and Second Amendment are herein referred to as the "**Development Agreement**." The Development Agreement provides for construction of the Home Ranch Project, as defined in the Original Agreement.

B. Exhibit "F" to the Original Agreement sets forth certain community benefits to be provided by CJS, and City and CJS desire to memorialize that many of the community benefits have been provided by CJS. As to the remaining community benefits relating to cultural resources and fire station, City and CJS desire to provide more specificity and otherwise update and clarify these requirements.

C. Finally, City and CJS desire to extend the term of the Development Agreement.

AGREEMENT

IN CONSIDERATION OF the foregoing Recitals, and for good and valuable consideration, CJS and City agree as follows:

1. Duration of Agreement. The Development Agreement is hereby extended and shall be operative and continue until that date which is twenty (20) years from the date of this Amendment, subject to earlier termination upon the completion, performance and discharge of all obligations thereunder.

2. Community Benefits – Owner’s Obligations Fulfilled. City and CJS agree that all obligations of CJS set forth in the following provisions of Exhibit “F” to the Original Agreement (Community Benefits Provided by Owner) have been satisfied in full:

(a) The first four subheadings of Section A, entitled “Improvements Required in Accordance with the General Plan” (which called for CJS to pay City \$3,888,910), “Improvements Required by Project Beyond the General Plan” (which called for CJS to pay City \$4,578,400), “Site Access Improvements” and “Susan Street Offramp.”

(b) Section C entitled “Contribution to Educational Advancement for Costa Mesa Students” (which called for CJS to pay City \$2,000,000).

(c) Section D entitled “Contribution for High School Athletic Facilities” (which called for CJS to pay City \$250,000).

(d) Section E entitled “Contribution to Restoration of Huscroft House” (which called for CJS to pay City \$200,000).

(e) Section F entitled “Residential Component.”

(f) Section H entitled “Sales and Use Tax Guarantee” (which called for CJS to guarantee payment to City of \$5,000,000).

All obligations of CJS under the foregoing referenced provisions have been fulfilled and thus these provisions are of no further force or effect in the Development Agreement.

3. Cultural Resources.

a. Historic Structures. The Segerstrom Home, Garage, Tool Shed (formerly erroneously referred to as a guesthouse) and Barn (collectively, the “**Historic Structures**”) as shown on Exhibit “A” to this Amendment have been preserved since before the Effective Date and shall continue to be preserved for historic resource purposes from the date of this Amendment through that date which is fifty (50) years from the date of this Amendment (the “**Historic Term**”), in accordance with the following:

i. The Historic Structures and the 1.5 acre site on which the Historic Structures are located, as more specifically shown on Exhibit “A” (the “**Historic Site**”), shall be maintained in substantially the same condition as existing as of the date of this Amendment at the sole cost of the owner of the Historic Site (the “**Historic Site Owner**”), except as to costs funded through the Historic Reserve Account as provided below. Notwithstanding anything to the contrary in the foregoing, the Historic Site Owner, at its sole cost, may move the Barn to any location within the Historic Site as selected by the Historic Site Owner, subject to compliance with all mitigation measures for the Home Ranch Project and the City’s building codes and regulations, in each case as then applicable to relocation of the Barn.

ii. The boundary(s) of the Historic Site may be modified from that shown on Exhibit “A” by the Historic Site Owner with the approval of the City’s Development Services Director, which approval shall be granted so long as (A) the Historic Site continues to

include all of the Historic Structures (or will continue to include all the Historic Structures following relocation of the Barn as permitted above), (B) the Historic Site continues to include at least 1.5 acres, (C) the modification to the boundary(s) does not have a material adverse effect on the Historic Site, and (D) the modification to the boundary(s) comport with any approved Master Plan(s) for the adjoining, touching property.

iii. Commencing with the calendar year 2011, the Historic Site shall be open to the public by the Historic Site Owner at least one day per calendar year. Access on or inside the Historic Structures is not required.

b. Recorded Use Restrictions. Substantially concurrently with the execution of this Amendment, CJS shall execute and record on the Historic Site, for the benefit of the City, the Declaration of Historic Use Restrictions attached hereto as Exhibit "B" (the "**Use Restrictions**"). As more particularly set forth therein, the Use Restrictions shall run with the land and impose on CJS and each successive Historic Site Owner, during the period of its ownership, the requirements set forth above in paragraph 3(a) for the period of the Historic Term. As with the Use Restrictions, paragraph 3(a) above shall terminate and be of no further force or effect with the expiration of the Historic Term. During the Historic Term, as part of any subdivision map or any other entitlement process that is otherwise consistent with the City's requirements, City may not impose on CJS or any successive owner of the Property additional obligations or requirements with respect to permitted use, preservation, public access or maintenance of the Historic Structures or Historic Site. CJS acknowledges that City's adopted General Plan, zoning and Specific Plan for the Historic Site impose restrictions preventing alternative use of the site, and nothing herein is intended to in any way modify said General Plan, zoning or Specific Plan.

c. Historic Reserve Account. Within one year of the date of this Amendment, CJS shall fund a segregated reserve account with the City in the amount of \$260,000 (the "**Initial Fund**"). The Initial Fund shall be held by the City in an interest bearing deposit account, subject to the terms of this paragraph 3(c). The term "**Historic Reserve Account**" as used herein means all amounts in such interest bearing account. The Historic Reserve Account is intended to be utilized for purposes of providing financial support for the costs of maintaining, operating and preserving the Historic Structures and Site (including listing the Historic Site on the State Registry) as follows:

(i) For so long as the Historic Site is owned by CJS, the Historic Reserve Account shall be utilized solely for:

A. Extraordinary costs incurred by CJS in maintaining the Historic Structures and Site, as requested by CJS and authorized by the City in accordance with a mutually agreed upon process. The Initial Fund shall be used first in its entirety to fund any extraordinary cost prior to City authorizing the use of any accrued interest in the Historic Reserve Account; and

- B. If the Historic Structures are relocated off the Historic Site as discussed in paragraph 3(f) below, costs incurred by CJS in the physical relocation of the Historic Structures. The Historic Reserve Account may not be used for application costs, processing fees, or legal or environmental documentation relating to relocation of the Historic Structures. Following relocation of the Historic Structures, any remaining balance of the Historic Reserve Account shall be transferred by the City to the then owner of the Historic Structures; and there shall no longer be a Historic Reserve Account with the City or any requirement hereunder for a Historic Reserve Account.
- C. If the Historic Reserve Account still exists as of the expiration of the Historic Term, then the Historic Reserve Account shall be disbursed by the City to CJS and the City as follows: any remaining balance of the Initial Fund shall first belong and be paid to CJS; any remaining balance, consisting of all accrued interest, shall be shared and paid evenly (50/50) between CJS and the City. Following such disbursements, there shall no longer be a Historic Reserve Account with the City or any requirement hereunder for a Historic Reserve Account.

(ii) If ownership of the Historic Site is transferred during the Historic Term as permitted in paragraph 3(e) below, the entire balance of the Historic Reserve Account shall be transferred by the City to the Permitted Transferee (as defined below); and there shall no longer be a Historic Reserve Account with the City or any requirement hereunder for a Historic Reserve Account.

The Historic Reserve Account may not be used for any purposes other than as described in this paragraph 3(c).

d. Mitigation Measure Fulfilled. Upon the last to occur of recordation of the Use Restrictions in the official records of Orange County, California, and funding of the Initial Fund by CJS to the City, all obligations and responsibilities of CJS with respect to the following portion of a mitigation measure for the Home Ranch Project (referenced in the Final Program EIR No. 1048 as mitigation measure 3.10.4(3)), with the exception of the identification of site buffering issues, shall be fully satisfied: "At such time that the applicant proposes a Master Plan for the balance of the project site, the precise boundaries of the preservation area, transfer of development rights, transfer of ownership to the City of Costa Mesa or a non-profit agency/organization, provisions for long-term preservation, and site buffering issues shall be identified."

e. Transfer of Historic Site. CJS may at CJS's election transfer ownership of the Historic Site, subject to the Use Restrictions, to any one of the following ("Permitted Transferee"): (i) any nonprofit entity (including without limitation a nonprofit entity owned or controlled by CJS), (ii) the City, (iii) another government agency or (iv) another private owner.

f. Relocation of Structures. Notwithstanding anything to the contrary above in this paragraph 3, CJS or any successive Historic Site Owner may apply to the City, at the sole cost of the Historic Site Owner, for a determination as to whether the Historic Structures may be relocated off the Historic Site to an alternative site which must be located in the City of Costa Mesa. Any proposal to relocate the Historic Structures must comport with all then applicable requirements which may include without limitation additional expert studies (at the Historic Site Owner's cost), additional public processing and new discretionary approval by the City. City is not hereby obligating itself to approve any relocation. In connection with any off-site relocation proposal, an ad hoc committee appointed by the City Council will be activated and charged with reviewing the proposed relocation plan for the Historic Structures and making recommendations to the City Council. The ad hoc committee will include a representative from each of the Costa Mesa Historic Preservation Committee, Costa Mesa Historical Society, City and Historic Site Owner. All off-site relocation plans must address maintenance obligations and preservation of the Historic Structures for the remainder of the Historic Term. No alternative site for the Historic Structures has been identified at this time. The alternative site may or may not be owned by CJS. If the Historic Structures are relocated to an alternative site as discussed in this paragraph, then the Historic Site shall be relieved of the obligations of paragraph 3(a) above and the Use Restrictions, but the alternative site shall be burdened by all such restrictions as may be imposed by the City in connection with the relocation.

g. Development Rights. All development rights for the Historic Site, including square footage and trip budget, are transferred and belong to the remainder of the Home Ranch Project south of South Coast Drive and east of Susan Street, excluding the Fire Station Site.

h. Original Agreement Amended. The entirety of Section B in Exhibit "F" to the Original Agreement (entitled "Cultural Resources") is hereby deleted from the Development Agreement and shall be of no further force or effect.

4. Fire Station.

a. Study Completed. The fire suppression study called for in Section G in Exhibit "F" to the Original Agreement (entitled "Fire Station") has been completed by the City and it has been determined that a new fire station is needed in the Home Ranch area. In addition, City's Fire Department has determined that its preferred fire station will require more square footage than the 30,000 square feet required under the Original Agreement.

b. Fire Station Site. The fire station shall be located on the Home Ranch on a square parcel consisting of 40,000 square feet (200 feet deep by 200 feet wide) fronting on South Coast Drive as more particularly shown on Exhibit "C" attached hereto (the "**Fire Station Site**"). City shall provide one year prior notice to CJS of City's intent to commence construction of a fire station on the Fire Station Site, and CJS shall convey the Fire Station Site to City upon notice from City that City has issued construction documents initiating the bidding process for the fire facility. The Fire Station Site shall be conveyed to City subject to a deed restriction providing that the Site may be used solely for fire station purposes. Costs of conveying the Fire

Station Site to the City shall be the sole responsibility of CJS. If construction of a fire facility has not commenced on the Fire Station Site before expiration of the Development Agreement (as extended in paragraph 1 above), the Fire Station Site shall be conveyed by City back to the original CJS owner. Costs of reconveying the Fire Station Site back to the original CJS owner shall be the sole responsibility of City. CJS's obligation to convey the Fire Station Site to the City terminates with expiration of the Development Agreement.

c. Owner's Development. Nothing contained in this paragraph 4 above shall be deemed or construed to preclude the exercise of all development rights granted or reserved to CJS in the Development Agreement. In other words, development of the Property, or any portion(s) thereof, shall not be conditioned upon construction by City of the fire station. In addition, prior to conveyance of the Fire Station Site to the City or subsequent to the conveyance of the site to the City but prior to construction of the fire station, the location of the Fire Station Site may be moved along South Coast Drive to accommodate development of the Property or any portion(s) thereof, subject to review and approval of the City.

d. Home Ranch Entrances. City expressly agrees that the remainder of the Home Ranch Project south of South Coast Drive and east of Susan Street shall be entitled to at least one dedicated full entrance (left and right turn in and out) on South Coast Drive between Fairview Road and Susan Street and one dedicated full entrance on Susan Street. Development of the fire station shall preserve these entrances for development of the remainder of the Home Ranch Project.

e. Fire Impact Fees. On or before 20 days after execution of this Amendment by all parties, CJS shall pay to City \$264,210.38 as the full and final payment due for any reason under Section G of Exhibit "F" to the Original Agreement (entitled "Fire Station"), including without limitation due for fire impact fees or for cost of building construction and site improvement costs. No other amounts whatsoever shall be due under said Section G.

f. Development Rights. All development rights for the Fire Station Site, including square footage and trip budget, are transferred and belong to the remainder of the Home Ranch Project south of South Coast Drive and east of Susan Street, excluding the Historic Site.

g. Original Agreement Amended. In the event of any conflict between the terms of this paragraph 4 and Section G in Exhibit "F" to the Original Agreement (entitled "Fire Station"), the provisions of this paragraph 4 shall control.

5. Exhibits. The Exhibits attached to this Amendment are incorporated herein by this reference.

6. Conflicts. Except as otherwise set forth herein to the contrary, all terms and provisions of the Development Agreement shall remain unamended and continue in full force and effect. This Amendment with the Development Agreement shall be construed together

and shall constitute one agreement. In the event of any inconsistency between this Amendment and the Development Agreement, the provisions of this Amendment shall prevail.

7. Defined Terms. All capitalized terms used herein and not defined herein shall bear the same meanings as set forth in the Development Agreement.

8. Counterparts. This Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which shall be deemed to constitute one instrument. It shall not be necessary that all signatories execute the same counterpart(s) of this Amendment for this Amendment to become effective.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to the Development Agreement for Home Ranch as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

Mayor of Costa Mesa

ATTEST:

Deputy City Clerk and ex-officio Clerk
of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney, City of Costa Mesa

C.J. SEGERSTROM & SONS, a California general partnership

By Henry T. Segerstrom Management LLC, a California limited liability company, Manager

By _____ Manager

OR

By _____ Alternate Manager

AND

By HTS Management Co., Inc., a California corporation, Manager

By _____

Title: Senior Vice President

HENRY T. SEGERSTROM PROPERTIES LLC, a California limited liability company

By Henry T. Segerstrom Management LLC, a California limited liability company, Manager

By _____ Henry T. Segerstrom, Manager

RUTH ANN MORIARTY PROPERTIES LLC, a California limited liability company

By _____

Its: _____

Exhibits

- A Historic Structures and Historic Site
- B Historic Use Restrictions
- C Fire Station Site

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

On _____, 2010 before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

On _____, 2010 before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

On _____, 2010 before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

On _____, 2010 before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

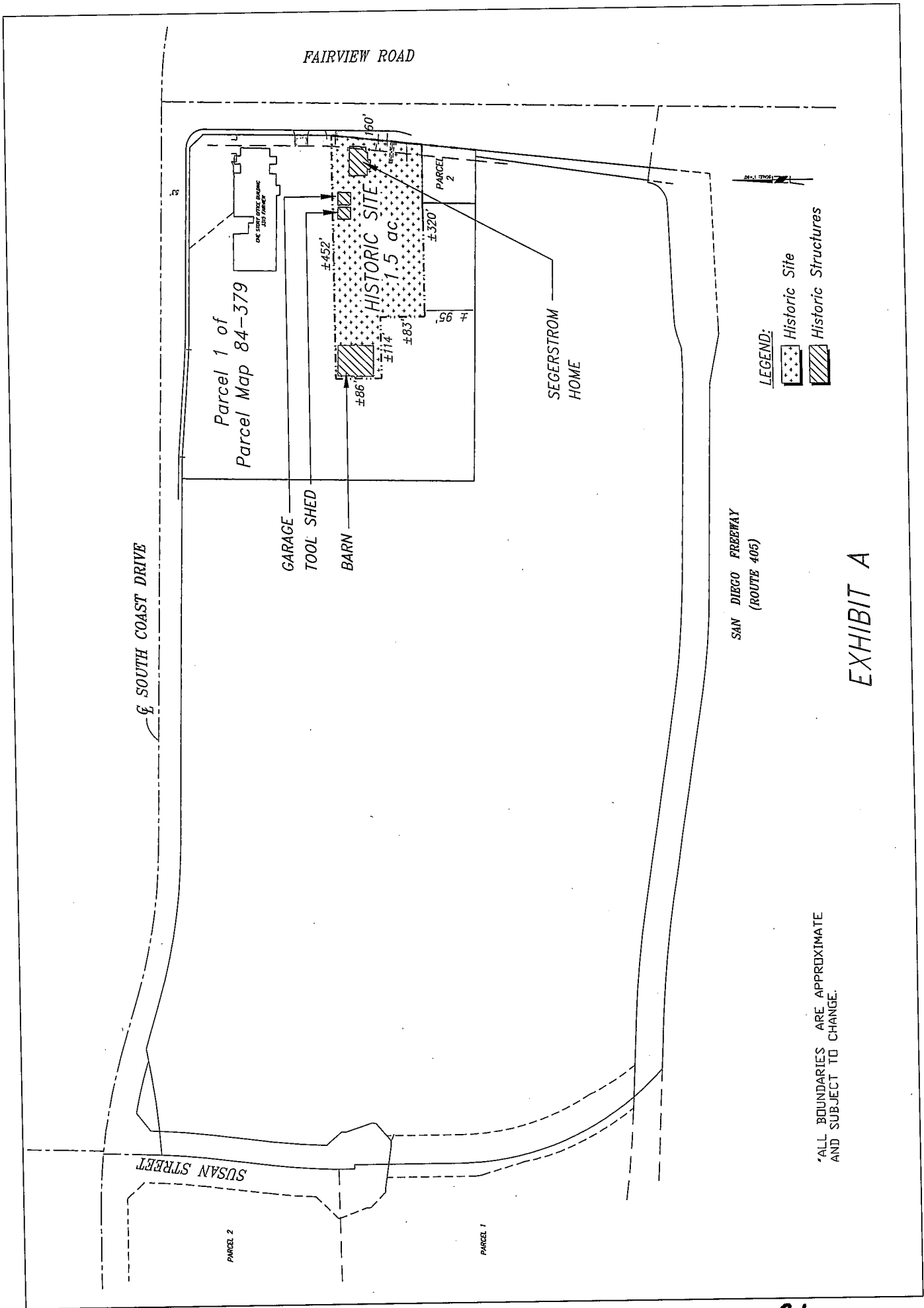
On _____, 2010 before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



EXEMPT RECORDING PER GOVERNMENT CODE
SECTION 6103

Recording Requested by CITY OF COSTA MESA

When Recorded Mail to:

CITY OF COSTA MESA
ATTENTION: City Clerk
P.O. BOX 1200
COSTA MESA, CALIFORNIA 92628-1200

DECLARATION OF SPECIAL LAND USE RESTRICTIONS
(Segerstrom Home Ranch Historic Site)

Exhibit B to Third Amendment to Development Agreement

DECLARATION OF SPECIAL LAND USE RESTRICTIONS
(Segerstrom Home Ranch Historic Site)

THIS DECLARATION OF SPECIAL LAND USE RESTRICTIONS ("**Declaration**") is executed this _____ day of _____, 2010, by C.J. Segerstrom & Sons, a California general partnership ("**CJS**"), with reference to the following:

RECITALS

A. CJS together with its affiliates Henry T. Segerstrom Properties, LLC, a California limited liability company, and Ruth Ann Moriarty Properties, LLC, a California limited liability company (collectively, "**Owner**") are parties with the City of Costa Mesa, a municipal corporation of the State of California (the "**City**"), to that certain Development Agreement for Home Ranch dated as of December 3, 2001, as amended by First Amendment to the Development Agreement for Home Ranch effective October 15, 2003, Second Amendment to the Development Agreement for Home Ranch dated as of April 3, 2007, and Third Amendment to the Development Agreement for Home Ranch dated _____ (collectively, the "**Development Agreement**"). The Development Agreement entitles Owner to develop certain property in Costa Mesa, California as more particularly described therein (the "**Property**").

B. The Development Agreement sets forth certain community benefits to be provided by Owner with respect to the Segerstrom Home, Garage, Tool Shed and Barn (collectively the "**Historic Structures**") located on a 1.5 acre portion of the Property (the "**Historic Site**"), all as more particularly shown on Exhibit A to this Declaration. Specifically, Owner has agreed to encumber the Historic Site with the specific covenants, conditions, restrictions and limitations set forth herein (collectively, the "**Restrictions**") to provide for the preservation of the Historic Structures for the benefit of the City for a period of 50 years.

C. CJS is the current owner of the Historic Site and enters into this Declaration to encumber the Historic Site with the Restrictions as required under the Development Agreement.

DECLARATION

NOW, THEREFORE, in consideration of the foregoing Recitals, and for good and valuable consideration, CJS hereby declares as follows:

1. Term. This Declaration and all of the terms and provisions set forth herein shall continue in full force and effect from _____ [Date of Third Amendment to Development Agreement] until _____ [Same Day and Month as Third Amendment] _____, 2060 (the "**Term**").

2. Preservation of Historic Structures. The Historic Structures shall be maintained throughout the Term in substantially the same condition as existing as of the date of this Declaration at the sole cost of the owner of the Historic Site (the "**Historic Site Owner**"). Notwithstanding anything to the contrary in the foregoing, the Historic Site Owner, at its sole cost, may move the Barn to any location within the Historic Site as selected by the Historic Site Owner, subject to compliance with all mitigation measures and building code and regulations then applicable to relocation of the Barn.

3. Historic Site Boundary. The boundary(s) of the Historic Site may be modified from that shown on Exhibit A by the Historic Site Owner with the approval of the City's Development Services Director, which approval shall be granted so long as (a) the Historic Site continues to include all of the Historic Structures (or will continue to include all the Historic Structures following relocation of the Barn as permitted above), (b) the Historic Site continues to include at least 1.5 acres, (c) the modification to the boundary(s) does not have a material adverse effect on the Historic Site, and (d) the modification to the boundary(s) comport with any City approved master development plan(s) for the adjoining, touching property.

4. Public Access. Commencing with the calendar year 2011 and thereafter throughout the Term, the Historic Site shall be open to the public by the Historic Site Owner at least one day per calendar year. Access on or inside the Historic Structures is not required.

5. Relocation of Structures. Notwithstanding anything to the contrary above in this Declaration, the Historic Site Owner may apply to the City, at the sole cost of the Historic Site Owner, for a determination as to whether the Historic Structures may be relocated off the Historic Site to an alternative site which must be located in the City of Costa Mesa. Any proposal to relocate the Historic Structures must comport with all then applicable requirements which may include without limitation additional expert studies (at the Historic Site Owner's cost), public processing and new discretionary approval by the City. City is not obligated to approve any relocation. In connection with any off-site relocation proposal, an ad hoc committee appointed by the City Council will be activated and charged with reviewing the proposed relocation plan for the Historic Structures and making recommendations to the City Council. The ad hoc committee will include a representative from each of the Costa Mesa Historic Preservation Committee, Costa Mesa Historical Society, City and Historic Site Owner. All off-site relocation plans must address maintenance obligations and preservation of the Historic Structures for the remainder of the Historic Term. No alternative site for the Historic Structures has been identified at this time. The alternative site may or may not be owned by Owner. Notwithstanding anything to the contrary herein, if the Historic Structures are relocated to an alternative site as discussed in this paragraph and the alternative site is burdened by such restrictions as may be imposed by the City in connection with such relocation, then this Declaration shall automatically terminate and be of no further force or effect with respect to the Historic Site.

6. Restrictions for Benefit of City.

a. Remedies. This Declaration is entered into for the exclusive benefit of the City, and in the event of any breach of the Restrictions, City at its sole option and discretion

may enforce any and all rights and remedies to which City may be entitled in law or equity. City alone has the right to enforce the Restrictions, and City may not assign any of its rights and powers under this Declaration.

b. Right to Inspect. City or its authorized representatives may from time to time during reasonable business hours enter upon the Historic Site to ascertain compliance with the Restrictions; provided City shall give the Historic Site Owner at least five business days prior written notice of the date and time of its entrance.

c. Amendments. This Declaration may be amended only in writing executed by the City and the Historic Site Owner.

d. Right to Cure. The Historic Site Owner shall not be deemed in breach of the Restrictions unless and until City shall have provided the Historic Site Owner with written notice describing the breach and Historic Site Owner shall have failed to cure such breach within 30 days of receipt of such notice; provided that if the breach is not reasonably susceptible of cure within the 30 day period, then the Historic Site Owner shall have a reasonable time to cure same so long as Historic Site Owner has commenced such cure within the 30 day period and thereafter diligently prosecutes the cure to completion.

e. Waiver. No waiver of any breach of any of the Restrictions shall be implied from any omission by City to take any action on account of such breach, and no express waiver shall affect a breach or default other than as specified in said waiver.

f. Costs of Enforcement. If any action or proceeding shall be instituted by City to enforce any provision of this Declaration, the party prevailing in such action or proceeding shall be entitled to recover from the other party all of its costs, including without limitation court costs and reasonable attorneys' fees.

7. Covenants Run With Land. The Historic Site shall be held, conveyed, used and occupied during the Term subject to the Restrictions set forth in this Declaration. The Restrictions are for the benefit of the real property described on Exhibit B attached hereto (the "**Benefitted Property**") and are intended and shall be construed as covenants and conditions running with and binding the Historic Site and every part thereof during the Term. All and each of the Restrictions shall be binding upon and burden all persons having or acquiring any right, title or interest in the Historic Site, or any part thereof, for the period of their ownership during the Term, and shall inure to the benefit of the Benefitted Property and shall be enforceable by the City, all upon the terms and provisions set forth herein. The Restrictions shall cease to benefit any portion of the Benefitted Property conveyed by the City to a third party. Every person or entity who now or hereafter owns or acquires any right, title or interest in the Historic Site is and shall be conclusively deemed to have consented and agreed to every Restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person or entity acquired an interest in the Historic Site.

8. Notices. All notices hereunder shall be in writing and shall be deemed to have been duly given if and when personally served or 48 hours after being sent by United States

certified or registered mail, return receipt requested, postage prepaid, to the applicable party at the following address:

Historic Site Owner:

C.J. Segerstrom & Sons
3315 Fairview Road
Costa Mesa, CA 92626
Attn: Managing Partner

with a copy to:

C.J. Segerstrom & Sons
3315 Fairview Road
Costa Mesa, CA 92626
Attn: General Counsel

City:

City of Costa Mesa
77 Fair Drive
Post Office Box 1200
Costa Mesa, CA 92628-1200
Attn: City Manager

with a copy to:

City of Costa Mesa
77 Fair Drive
Post Office Box 1200
Costa Mesa, CA 92628-1200
Attn: City Attorney

or at such other address as Historic Site Owner or City may designate to the other in writing in accordance with the provisions of this paragraph.

9. Governing Law. This Declaration shall be governed by and construed under the laws of the State of California.

10. Severability. If any portion of this Declaration shall become or be held by any court of competent jurisdiction to be illegal, null or void or against public policy, for any reason, the remaining portions of this Declaration shall not be affected thereby and shall remain in force and effect to the full extent permitted by law.

11. Exhibits. The Exhibits attached to this Amendment are incorporated herein by this reference.

IN WITNESS WHEREOF, CJS has executed this Declaration as of the date first above written.

C.J. SEGERSTROM & SONS, a California general partnership

By Henry T. Segerstrom Management LLC, a California limited liability company, Manager

By _____
Manager

OR

By _____
Alternate Manager

AND

By HTS Management Co., Inc., a California corporation, Manager

By _____

Title: Senior Vice President

Exhibits

- A Historic Structures and Historic Site
- B Benefitted Property

State of California)
COUNTY OF ORANGE)

On _____, 2010 before me, _____, Notary
Public, personally appeared _____ and _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

FAIRVIEW ROAD

SOUTH COAST DRIVE

SUSAN STREET

PARCEL 2

PARCEL 1

Parcel 1 of
Parcel Map 84-379

GARAGE

TOOL SHED

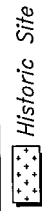
BARN

HISTORIC SITE
1.5 ac

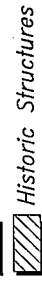
SEGERSTROM
HOME

SAN DIEGO FREEWAY
(ROUTE 405)

LEGEND:



Historic Site



Historic Structures

*ALL BOUNDARIES ARE APPROXIMATE
AND SUBJECT TO CHANGE.

EXHIBIT A

EXHIBIT B
DECLARATION OF SPECIAL LAND USE RESTRICTIONS
(Segerstrom Home Ranch Historic Site)

BENEFITTED PROPERTY

The properties described below shall constitute the "Benefitted Property" for purposes of this Declaration, provided that any such property shall cease being part of the "Benefitted Property" at such time as fee title to such property ceases to be owned by the City of Costa Mesa, a municipal corporation of the State of California.

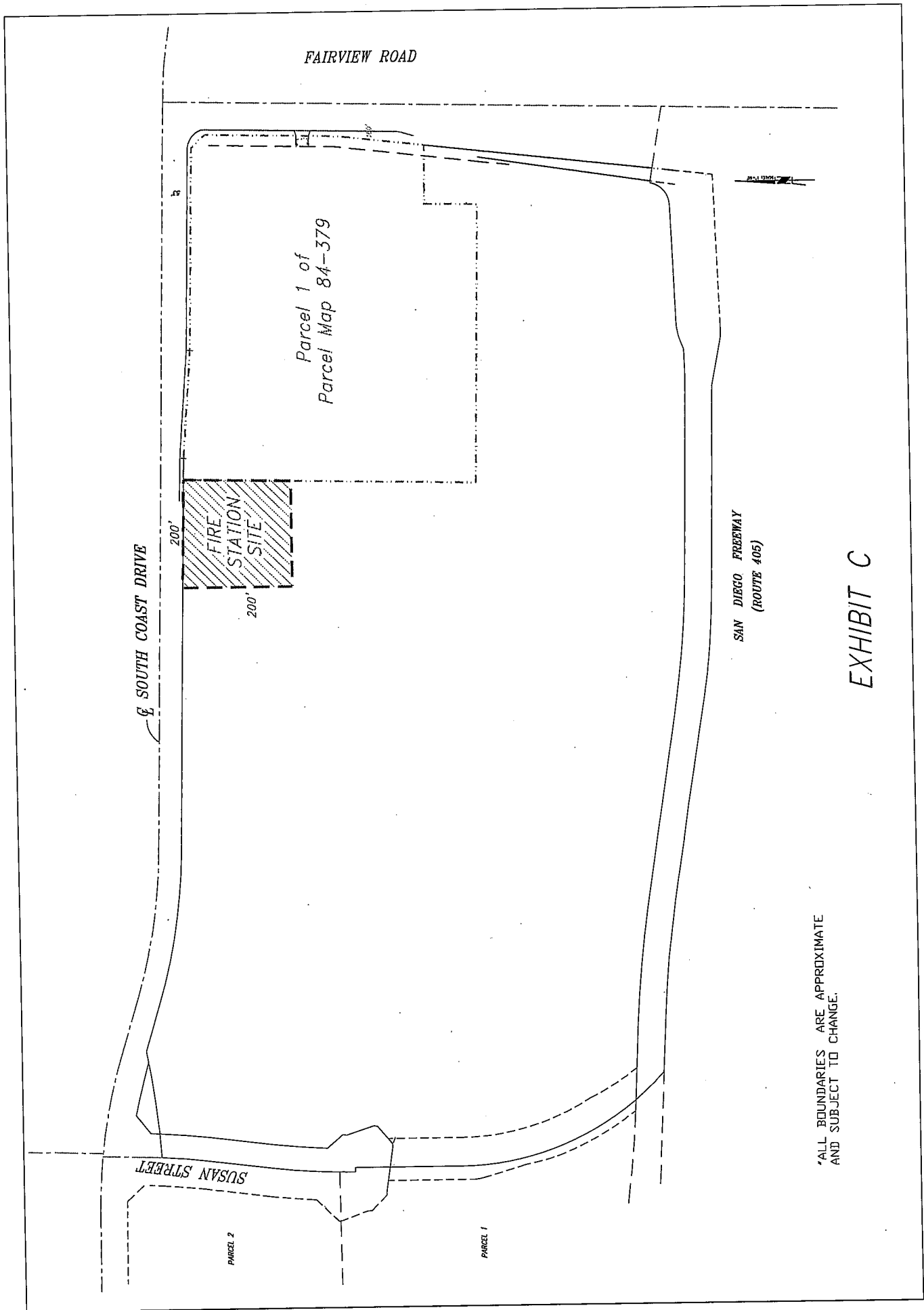
I. Legal Description of Property at 261 Monte Vista Avenue, Costa Mesa, CA

THE NORTHWESTERLY 165 FEET OF LOT 117 OF TRACT NO. 300 IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP THEREOF RECORDED IN BOOK 14, PAGES 11 AND 12 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY.

EXCEPT THAT PORTION LYING SOUTHWESTERLY OF THE NORTHEAST LINE OF THE LAND CONVEYED TO THE CITY OF COSTA MESA BY GRANT DEED RECORDED JANUARY 7, 1976 IN BOOK 11614, PAGE 1894 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY.

II. Other Properties

All other property owned by the City of Costa Mesa in the County of Orange, California, as of the date of recordation of this Declaration.



*ALL BOUNDARIES ARE APPROXIMATE
AND SUBJECT TO CHANGE.

EXHIBIT C